

AGREEMENT

THIS AGREEMENT is entered into as of this ____ day of _____, 2013 by and between the California High Speed Rail Authority (hereinafter referred to as "CHSRA") and the Peninsula Corridor Joint Powers Board (hereinafter referred to as "PCJPB").

RECITALS

WHEREAS, in January, 2004, the CHSRA and the PCJPB entered into a Memorandum of Understanding (the "2004 MOU"), the purpose of which was to establish a framework for future cooperation between the two agencies relative to the proposed development of a high speed train system for California that would share the rail corridor between the City of San Jose and the City and County of San Francisco owned by the PCJPB ("Peninsula Rail Corridor"); and

WHEREAS, in April, 2009, the CHSRA and the PCJPB entered into a new agreement, the purpose of which was to establish an initial organizational framework whereby CHSRA and PCJPB would engage as partners in the planning, design and construction of improvements along the Peninsula Rail Corridor to accommodate and serve the respective interests of the two organizations ("the 2009 Agreement"); and

WHEREAS, in November 2009, the 2009 Agreement was amended which, among other things, established a 50-50 financial cost sharing arrangement between the parties to cover costs incurred in connection with carrying out the purposes of said Agreement; and

WHEREAS, in April, 2012, the CHSRA adopted a Revised Business Plan which enunciated a new approach to the future development of a high speed rail system along the Peninsula Rail Corridor; and

WHEREAS, more specifically, the Revised Business Plan establishes a policy to develop the high speed rail system utilizing a blended system approach that will coordinate the development and operation of high speed trains within the existing PCJPB commuter rail system, based on the premise that the blended system will remain substantially within the existing PCJPB right-of-way and will accommodate future high-speed rail and modernized PCJPB commuter rail service by primarily utilizing the existing track configuration in the Peninsula Rail Corridor (the “Blended System”); and

WHEREAS, the PCJPB is supportive of a program of investments in its Peninsula Rail Corridor that will serve to upgrade its existing commuter rail system while concurrently preparing for future high-speed trains provided it is limited to infrastructure necessary to support the Blended System consisting of primarily a two-track system substantially within the existing PCJPB right-of-way shared by both PCJPB commuter trains and CHSRA trains, as well as other passenger and freight services; and

WHEREAS, the PCJPB is committed to respecting the interests of the communities through which the Blended System will be constructed by encouraging design of the Blended System in a manner that will avoid adverse impacts, including those associated with aerial options or options that involve construction of facilities substantially outside of the PCJPB existing right-of-way; and

WHEREAS, during the spring of 2012, the CHSRA and the PCJPB, together with the Metropolitan Transportation Commission, the San Francisco County Transportation Authority, the Santa Clara Valley Transportation Authority, the City of San Jose, the City and County of San Francisco, the San Mateo County Transportation Authority and the Transbay Joint Powers Authority entered into a Memorandum of Understanding that adopted an early investment strategy pertaining to the Blended System in the San Francisco to San Jose Segment of the Peninsula Rail Corridor (the "2012 Nine-Party MOU"), a copy of which is attached hereto as Exhibit A and incorporated herein by this reference; and

WHEREAS, the 2012 Nine-Party MOU identifies two principal inter-related projects as essential to the early investment strategy: (1) Corridor Electrification and associated rolling stock acquisition, and (2) construction of an advanced signal system, commonly known as the PCJPB's "CBOSS" project and hereinafter referred to as CBOSS, which will incorporate federally mandated Positive Train Control (collectively, the "Early Investment Projects"); and

WHEREAS, as a result of and based upon the aforementioned series of actions that support implementation of future high speed rail service in the Peninsula Rail Corridor

predicated upon the Blended System, CHSRA and PCJPB have concluded that it is timely, and in the public's interest, to terminate the 2004 MOU and 2009 Agreement and to enter into a new agreement covering project planning and development focused exclusively upon and confined to the Blended System.

NOW, THEREFORE, in consideration of the foregoing the parties hereby agree as follows:

1. **TERMINATION OF THE 2004 MOU AND 2009 AGREEMENT**

The parties agree that the 2004 MOU and 2009 Agreement, as amended, hereby are terminated and the provisions contained therein are of no further force or effect.

2. **PURPOSE OF AGREEMENT**

The purpose of this agreement is to establish a new partnership between the parties for the planning, environmental review, design and ultimate construction of improvements in the Peninsula Rail Corridor that will accommodate and serve both PCJPB commuter rail service and CHSRA high speed rail service predicated upon the Blended System as defined in the CHSRA 2012 amended Business Plan and in the above referenced 2012 Nine-Party MOU.

3. PARTNERSHIP PRINCIPLES

A. The following Partnership Principles that were fundamental to the understandings reached between the parties and embedded in the 2009 Agreement hereby are reiterated and reconfirmed in the context of the Blended System:

1. It is recognized that development of the Blended System will have to take place while PCJPB commuter rail service remains in regular operation. The customers of the PCJPB must continue to be served throughout the Blended System construction program. It is further recognized that certain improvements in the Peninsula Rail Corridor, most notably the Early Investment Projects consisting of Corridor Electrification and construction of CBOSS, will be required first in order to facilitate construction of the Blended System and to minimize service disruptions in the operation of the PCJPB commuter rail service, the commuter rail services of ACE, the intercity rail services of Capitol Corridor and freight operations during the Blended System construction program.

2. The Blended System must be designed, constructed and operated in a manner fully consistent with the operational requirements of the PCJPB commuter rail system and with consideration of the interests of the cities served by said system through which the high speed rail Blended System will be constructed and operated, as well as other community partners and stakeholders.

3. The parties recognize the investments already made by the PCJPB, including the intrinsic value of the Peninsula Rail Corridor owned by the PCJPB and expenditures made to acquire and improve it, as well as those to be made in the future by the PCJPB in pursuit of Corridor Electrification, CBOSS and other rail improvement projects. The

parties further recognize that the existing right of way and existing improvements are owned solely by the PCJPB and that the Early Investment Project improvements will be owned by the PCJPB. Ownership of future improvements and associated additional right-of-way required to implement the Blended System will be the subject of a future agreement between the parties. It is understood that it will be necessary for the parties to negotiate one or more agreements at a future date to facilitate construction and shared use of the Peninsula Rail Corridor by CHSRA in order to implement and operate the Blended System.

B. In addition to the foregoing, the parties agree to the following new and additional Principles:

1. As stipulated in the 2012 Nine-Party MOU, the parties will jointly support and pursue the implementation of a statewide high-speed rail system predicated upon the Blended System, it being recognized that the Blended System will support and benefit operation of both PCJPB's commuter rail system and CHSRA's high-speed train service.

2. Implementation of Corridor Electrification together with associated rolling stock acquisition and construction of CBOSS constitute essential early investment projects in the Peninsula Rail Corridor that will have independent utility while at the same time will be of tangible benefit to future development and operation of the Blended System.

3. As stated in PCJPB Resolution No. 2012-018, adopted on May 3, 2012 which approved execution of the 2012 Nine-Party MOU and the Early Investment Projects strategy contained therein:

a The PCJPB, as the owner of the Peninsula Rail Corridor and operator of the commuter rail system thereon, will implement the Early Investment Projects; and

b The Early Investment Projects will be planned, designed and constructed in a way that respects community partners and stakeholders.

The foregoing Principles contained in Sections 3(A) and 3(B) shall govern the actions of the parties henceforth relative to the planning, design and construction of the Early Investment Projects and ultimately the Blended System.

4. ACTION PLAN

The initial series of actions to be pursued in concert by the parties will be to work toward the implementation of the Early Investment Projects strategy as previously agreed in the 2012 Nine-Party MOU. Toward that end, the parties agree to undertake the following specific actions:

A. CHSRA will reflect this Agreement and the 2012 Nine-Party MOU in its Business Plan at the earliest possible date;

B. The parties will work cooperatively and collaboratively to secure approval and release of \$600 million of Proposition 1A funds and \$106 million of Proposition 1A “connectivity” funds appropriated by the California Legislature pursuant to Chapter 152 of the Budget Act of 2012 (Senate bill No. 129) and consistent with the funding plan contained in the 2012 Nine-

Party MOU to enable the Corridor Electrification and CBOSS projects to proceed to their respective next stages of development;

C. Having already environmentally cleared and initiated construction of the CBOSS project, PCJPB shall continue to serve as lead agency responsible for final completion and delivery of that component of the early investment program;

D. PCJPB shall continue to serve as lead agency for all aspects of the Corridor Electrification project, including environmentally clearing the project and subsequently arranging for its design, construction and implementation. PCJPB intends to use its best efforts to ensure delivery of the Corridor Electrification and CBOSS projects on an expedited basis and with a target final completion date no later than 2019 and CHSRA will provide such assistance as may be reasonably necessary to facilitate funding, environmental certification and project delivery by that target date;

E. The parties will establish an organizational framework for the administration and management of their ongoing relationship to achieve the purposes of this Agreement. The organizational framework will incorporate protocols and procedures for approval by both parties of the Early Investment Projects and Blended System designs. In addition to identifying their respective project team members and roles, the organizational framework will formalize a detailed financial plan incorporating financial systems and procedures required to implement continued cost sharing arrangements applicable to administration and management of the early investment program;

F. The parties will develop construction and implementation plans designed to preserve freight service in the Peninsula Rail Corridor in a manner consistent with the existing Trackage Rights Agreements between PCJPB and Union Pacific Railroad;

G. The parties will work together to assure compliance with all applicable statutory and regulatory reporting requirements and deadlines established by funding agencies;

H. From a longer term perspective, CHSRA shall continue to serve as lead agency for environmental clearance of the high speed rail Blended System project, it being understood that PCJPB will continue to act independently to support the interests and concerns of the communities along the Peninsula Rail Corridor throughout the environmental, planning, design and construction phases with a specific focus on, among other things, the location of passing tracks and any storage or maintenance facility within or along the Peninsula Rail Corridor that may be determined to be necessary to support the Blended System, grade separations supported by cities in which they will be constructed, and station improvements and associated land use compatibility considerations. Additionally, the parties will address and mutually agree upon the most effective project design and construction mechanism to be deployed, including oversight responsibility; and

I. The parties recognize and acknowledge that over time it will be necessary to formalize supplements to this agreement to address a variety of issues pertinent to future shared use of the Peninsula Rail Corridor including, but not limited to, (1) construction windows and protocols intended to safely construct Blended System improvements while facilitating on-going commuter rail, intercity rail and freight operations, and (2) maximization of system interoperability associated with rail system scheduling, dispatching, passenger boarding, and maintenance of facilities.

5. EFFECT OF AGREEMENT ON OTHER PCJPB RAIL CORRIDOR-RELATED PROJECTS

Nothing contained in this agreement is intended to preclude the advancement of locally-supported plans or project improvements along the PCJPB rail corridor that are consistent with the Early Investment Projects and the Blended System project.

6. EFFECTIVE DATE AND TERMINATION

This agreement shall be effective upon execution by both parties and shall continue in effect until and unless terminated by both parties through mutual agreement or upon 180 days' written notice delivered by the party seeking to terminate the agreement to the other party.

IN WITNESS WHEREOF, CHSRA and PCJPB have executed this Agreement on the day and year first above written.

California High Speed Rail Authority

Peninsula Corridor Joint Powers Board

BY: _____

BY: _____

Approved as to Form:

Approved as to Form:
